

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Debtor.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

**ORDER REGARDING THE RETENTION OF DOCUMENTS BY THE
DISCOVERY ARBITRATOR**

WHEREAS, on September 7, 2018, the Court entered an Order to Show Cause Why October 4, 2016 Order Appointing Discovery Arbitrator Pursuant to Bankruptcy Rule 9019(c) and General Order M-390 Should Not be Amended (“Order to Show Cause”) (ECF Doc. # 17958);

WHEREAS, the Order to Show Cause ordered parties having previously appeared before the Discovery Arbitrator¹ to explain why the section of the Discovery Order pertaining to the Discovery Arbitrator’s document retention obligation should not be amended to limit the period of time for which the Discovery Arbitrator must retain the documents;

¹ Capitalized terms not defined herein have the meanings ascribed to them in the Order to Show Cause.

WHEREAS, Chaitman LLP (“Chaitman”) responded to the Order to Show Cause by Letter, dated September 18, 2018 (ECF Doc. # 17987) asserting that certain matters before the Discovery Arbitrator involving Chaitman’s clients and Irving H. Picard, trustee of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act (“Trustee”), remain pending; and

WHEREAS, at the September 26, 2018 hearing on the Order to Show Cause, the Court instructed Chaitman to submit a letter to the Court stating the matters that remain pending before the Discovery Arbitrator (*Transcript of Sept. 26, 2018 Hearing* at 70:13-15), but she has failed to do so; it is hereby

ORDERED, that Chaitman must file a letter setting forth the matters before the Discovery Arbitrator which she reasonably believes remain pending, and email copies to the Trustee, the Discovery Arbitrator and the Court, by 4:00 p.m. on November 6, 2018; and it is further

ORDERED, that responses, if any, to the to Chaitman’s letter must be filed and emailed by 4:00 p.m. on November 13, 2018; and it is further

ORDERED, that in the interim, the Discovery Arbitrator is authorized to dispose of any documents pertaining to disputes not involving Chaitman’s clients for which the Discovery Arbitrator’s involvement in the matter is complete and/or any ruling of the Discovery Arbitrator has become final and non-appealable pursuant to the terms of the Discovery Order and any applicable Federal Rules of Bankruptcy Procedure; and it is further

ORDERED, that in the event that the Chaitman letter is not filed and served in

accordance with this order, the preceding decretal paragraph shall govern the
disposition of the documents pertaining to disputes involving Chaitman's clients.

Dated: New York, New York
October 23, 2018

/s/ *Stuart M. Bernstein*
STUART M. BERNSTEIN
United States Bankruptcy Judge

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